

PART 8

GENERAL INFORMATION AND STATUTORY CITATIONS

Part 8 contains general information designed to assist school corporation officials in the administration of their duties. The information contained herein is supported in some instances by legal references, court decisions and official opinions of the Attorney General; however, if any legal question arises, the school corporation attorney should be consulted.

Throughout Part 8 reference is made in many articles to sections of the General School Powers Act, noting the Code citation (IC 20-5-1-1 to IC 20-26-5-20).

If the need arises, refer to the applicable volume of the Indiana Code in which the citation appears. Also, where reference is made to Official Opinions of the Attorney General, court decisions, or other legal references, these should be consulted for the full text of the matter discussed.

GENERAL INFORMATION AND LEGAL GUIDE

GOVERNING BODY DEFINED

"Governing body" is defined in the General School Powers Act to mean the board or commission charged by law with the responsibility of administering the affairs of a school corporation, including but not limited to, a board of school commissioners, metropolitan board of education, board of school trustees or board of trustees.

GOVERNING BODY ELIGIBILITY

In addition to any other eligibility requirements for members of the governing body of a school corporation as set forth in law, an individual who is employed as a teacher (as defined in IC 20-18-2-22) or as a noncertified employee (as defined in IC 20-29) of the school corporation may not be a member of the governing body of the school corporation. IC 20-26-4-11.

TERM OF OFFICE OF GOVERNING BODY

The terms of the members of all governing bodies whether elected or appointed shall commence and terminate in accordance with IC 20-26-4-4. An ex-officio member shall take office at the time he takes the oath of the office by virtue of which he is entitled to become such ex-officio member.

Unless the plan, resolution or law under which the school corporation operates specifically provides for the filling of vacancies of appointed membership by the appointing authority, the remaining members of the governing body shall by majority vote fill such vacancy by appointing a person from within the boundaries of the school corporation with the residence and other qualifications provided for a regularly elected or appointed board member filling such membership, to serve for the term or the balance of the term, IC 20-26-4-4. This section shall not be applicable to a school city of the first class or to a school corporation succeeding to all or the major part in area of such school city.

Each person elected or selected to be a member of a school corporation governing body shall take the following oath before taking office:

"I solemnly swear (or affirm) that I will support the constitution of the United States of America, the constitution of the state of Indiana, and the laws of the United States and the state of Indiana. I will faithfully execute the duties of my office as a member of this governing body, so help me God."

Provided, that the school corporation governing body may provide for such additional provisions to said oath as the governing body may deem appropriate for said office.

ORGANIZATION OF GOVERNING BODY

The governing body of each school corporation shall, within the first fifteen (15) days following the commencement date of the members' terms of office, organize by electing a president, vice president and secretary, each of whom shall be a different member.

The governing body shall also at such time appoint a treasurer of the governing body and of the school corporation who is a person other than the superintendent of schools and who is not a member of the governing body. The treasurer shall be the official custodian of all funds of the school corporation and shall be responsible for the proper safeguarding and accounting for all such funds and shall issue a receipt for any moneys coming into his hands, deposit such moneys in accordance with the laws governing the deposit of public funds and issue all checks in payment of expenses lawfully incurred on behalf of the school corporation, but, except as otherwise provided by law, shall issue such checks only after proper allowance or approval by the governing body. No allowance or approval shall be required by the governing body for amounts lawfully due in payment of indebtedness or payments due the State of Indiana, the United States government or their agencies or instrumentalities. Any claim of one hundred dollars (\$100) or less (IC 20-5-3-1) or claims rendered by a public utility for electric, gas, steam, water or telephone services, the charges for which are regulated by a governmental body or claims for services rendered by publicly owned or publicly operated utilities need not be certified (IC 5-11-10-1).

The governing body may establish the position of executive secretary to the governing body. The executive secretary must be an employee in the school corporation; may not be a member of the governing body; and shall be appointed by the governing body upon the recommendation of the superintendent of the school corporation. The governing body shall determine the duties of the executive secretary, which may include all or part of the duties of the secretary of the board.

MEETINGS OF GOVERNING BODY

Requirements concerning regular meetings, statutory meetings and special meetings of the governing body are set out in the General School Powers Act. No action may be taken unless a quorum is present. A majority of the members shall constitute a quorum. All meetings shall be open to the public to the extent required by IC 5-14-1.5. (Indiana Open Door Law)

MINUTES OF MEETINGS OF GOVERNING BODY

All business transacted by the governing body must be recorded in the minutes of the meetings. It is the duty of the secretary of the governing body to keep the minutes and the minutes of each meeting should be approved by the governing body and signed by the members attending.

It is important that the minutes be accurate and complete since the governing body speaks from its minutes. It is not necessary that all documents acted upon, such as bids and contracts, be copied in the minutes but reference thereto and the action taken thereon should be recorded in the minutes and the documents carefully preserved. There are important papers and documents; however, that will need to be completely recorded in the minutes, such as proceedings to issue bonds. You should consult the school attorney if a question arises as to the need for making a complete record on any matter.

Examples of school business decisions and transactions which should be recorded in the minutes are:

1. Employment and compensation of teachers, bus drivers, janitors and other employees, including salary schedules adopted.
2. Travel and other allowances of employees, such as travel expense, to be paid to the school superintendent, principals and teachers, (Stipulated maximum amounts to be allowed should also be included in contracts). These amounts may be paid only as reimbursement for expenditures actually made by the employee.
3. Decision to allow teachers and other school employees to attend conventions or educational meetings, or to visit model schools, and the expense to be allowed on such trips.
4. Decisions with respect to receipt of bids and award of contracts for supplies, fuel, equipment, goods, and materials. Also bids and contracts for construction, alteration, or repair of buildings and improvement of grounds. All bids received, whether accepted or rejected, should be kept on file in the school business office.
5. Bids received and contracts awarded to bus drivers.
6. Proceedings pertaining to bond sales.
7. Proceedings relative to the establishment, extension or alteration of a Capital Projects Fund plan.
8. Decisions and actions relative to Public Employees' Retirement Fund benefits for employees; also group insurance and other employee benefits.
9. Designation of depositories.
10. Resolutions of appropriation and proposed tax levies. A complete set of budget forms as submitted to the county auditor as well as a record of the action of the County Board of Tax Adjustment and of the Department of Local Government Finance should be kept on file in the school business office.
11. A record of all additional or emergency appropriations.
12. Records of discharge of all employees together with reasons for dismissal.
13. Records of time schools are closed during the school term and reasons for closing; also a record of decisions concerning date of beginning, date of closing and length of school terms.
14. Records of appointments and salaries of clerical help and office assistants, library, recreation and school lunch personnel.
15. All decisions relative to school activities, recreation programs, adult education and other programs.
16. Records of reasons and amounts of all emergency and temporary loans.
17. Record number of claims or accounts payable vouchers approved and allowed or disallowed by the governing body at each meeting and the reasons for disallowance.
18. Record of Loans between funds.

19. Policy for the operation of individual school buildings; i.e., investment interest income, approval of equipment acquisition, etc.
20. Separate Home Rule Resolutions for various situations in accordance with IC 20-5-1.5.
21. Determine compensations of Board Members, not to exceed \$2,000 per year and a per diem (IC 20-5-3-6) not to exceed the amounts for members of the Board of School Commissioners under IC 20-3-11-2(c). Rates as of January 1, 1998 are \$112 for regular meetings and \$62 for committee meetings. Rates must be approved for appointed boards under IC 20-4-1-26.3.

GENERAL POWERS OF GOVERNING BODY

Each school corporation shall have the power to conduct an educational program for all children resident within such school corporation in kindergarten and in grades 1 through 12; to conduct an educational program for adults and children over the age of fourteen (14) years not attending such first mentioned program; to provide in either such program instruction in vocational, industrial or manual training; to provide a special education program for handicapped children as now required by law; to provide libraries for the schools of such school corporation, to provide public libraries open and free for the use and benefit of the residents and taxpayers of the school corporation where permitted by law, to provide vacation school and recreational programs, and to conduct such other educational or other activities as shall be permitted or required to be performed by law by any school corporation. Such powers shall be construed as purposes as well as powers, IC 20-26-5-1.

SPECIFIC POWERS OF GOVERNING BODY

The School Powers Act provides certain powers of the governing body, acting on behalf of the school corporation in carrying out the school purposes. These may be found in IC 20-26-5-4.

LIMITATION OF POWERS

All powers delegated to the governing body of each school corporation under IC 20-5-2-1 and IC 20-26-5-4, shall be governed by all the laws subjecting the school corporation to regulation by state agencies, including but not limited to the Superintendent of Public Instruction, State Board of Accounts, Indiana State Police, State Department of Fire and Building Services, Department of Local Government Finance, Stream Pollution Control Board, State School Bus Committee, State Board of Health and any local government agency to which the state has delegated a specific authority in matters, other than educational matters and other than finance, including but not limited to planning commissioners, zoning boards and boards dealing with health and safety, IC 20-26-5-6.

HOME RULE

IC 20-26-3 provides for Home Rule for school corporations. A school corporation may exercise any power it has to the extent that the power: (1) is not expressly denied by the Constitution of the State of Indiana, by statute, or by rule of the State Board of Education; and (2) is not expressly granted to another entity.

If there is no constitutional or statutory provision requiring a specific manner for exercising a power, a school corporation wanting to exercise the power must either: (1) adopt a written policy prescribing a specific manner for exercising the power; or (2) comply with a statutory provision permitting a specific manner for exercising the power.

A written policy must be adopted by the governing body of the school corporation.

A school corporation does not have any of the following powers:

1. Those powers expressly prohibited of a unit under IC 36-1-3-8.
2. The power for eminent domain, unless specifically authorized by statute.
3. The power to prescribe a civil penalty or a fine.
4. The power to adopt ordinances.
5. The power to require the attendance of witnesses and the production of documents relative to matters being considered, unless specifically authorized by statute.
6. The power to exercise powers outside of the boundaries of the school corporation, unless authorized by statute through joint agreements or otherwise.

GOVERNING BODY - OTHER DUTIES

Some duties of the governing body not specifically mentioned in the School Powers Act are the following:

1. Authority to administer oaths relative to school business appertaining to their respective offices.
2. Duty to examine all claims, accounts payable vouchers, and payrolls; to disallow any claim or part thereof if incorrect, illegal or unjust; or to sign and approve said claims for payment. (IC 5-11-10-1 and IC 20-26-4-1).
3. To constitute the board of finance and select the depositories for the school corporation. Review the annual report of the investing officer and the school corporation's overall investment policy.
4. To publish an annual financial report no earlier than August 1 or later than August 15. Publication must be made by one insertion in each of two newspapers published in the school corporation.

IC 20-20-8-3 provides that no earlier than January 15 or later than January 31 of each year the governing body of a school corporation shall publish an annual performance report in accordance with IC 20-1-21-8.

5. To prepare an annual budget and proposed tax levy, to be published by two insertions in each of two newspapers published in the school corporation. If only one (1) newspaper is published in the school corporation, then notice published in that newspaper alone is sufficient. If there is no newspaper published in the school corporation, then the notice shall be published in a newspaper or newspapers published in the county in which the school corporation is located and that circulates in the school corporation. The notice shall be posted: (1) at or near the school administration building; and (2) at the post office in the school corporation (or at the bank if there is no post office). IC 5-3-1-4.
6. To provide transportation for school children to and from school as authorized by the School Transportation Code. (IC 20-27)

MEMBERSHIP DUES

IC 20-26-5-8 provides: "The governing body of a school corporation may appropriate necessary funds to provide membership of the school corporation in state and national associations of an educational nature that have as their purpose the improvement of school governmental operations." Accordingly, the State Board of Accounts is of the audit position that dues, memberships and subscriptions should be institutional memberships; i.e., in the name of the school corporation or school building, not an individual's name.

SOCIAL SECURITY, ADM, AND OTHER STATE DISTRIBUTION OVERPAYMENTS

School Officials should contact the Indiana Department of Education, Division of School Finance, to determine possible steps to be taken to correct any overpayment/underpayment applicable to the School Corporation because of incorrect reporting.

EQUIPMENT PURCHASES

IC 20-26-5-4 provides in part: "In carrying out the school purposes of each school corporation, its governing body acting on its behalf shall . . . acquire such personal property or any interest therein as the governing body deems necessary for school purposes . . ." Therefore, extra-curricular equipment purchases should be approved prior to purchase by the Board of School Trustees.

ANNUAL BUDGET

Each school corporation must prepare an annual budget. The meeting for the adoption of the budget and tax levies shall be held no later than September 20 of each year. School Budget Forms No. 1 to 5 (including No. 1-S) have been prescribed by the Department of Local Government Finance for preparation of the budget. At least four copies of each form should be prepared, two copies to be submitted to the county auditor, one copy for the governing board and one copy to be retained in the school business office. Two additional copies of Form No. 3 should be prepared for publication. A meeting for public hearing of the budget shall be held at least ten (10) days prior to the meeting for adoption.

School Budget Form No. 1, Budget Estimate, is to be prepared in detail, estimating expenditures for the ensuing year by funds and program classifications. This estimate may be prepared in total for the entire school corporation or, if desired, by school classification (elementary, junior high school, and high school).

School Budget Form No. 1-S is supplemental to Form No. 1 and shows how much of the amount estimated on Form No. 1 in each Program is for each of the seven Object classifications. A copy of the form should accompany each Budget Estimate, Form No. 1, to be filed in the same manner as other budget form.

School Budget Form No. 2, Estimate of Miscellaneous Revenue, is to be used for estimating receipts from sources other than general property taxes. All anticipated miscellaneous revenue must be entered on the form by fund.

School Budget Form No. 3 is a compiled analysis of the budget and a determination of the tax levy by funds and amounts to be raised from property taxes. The contemplated expenditures by funds and programs must be listed on Page 1. This form must be published, showing the date and hour of the meeting of the board when it is to be considered and adopted as well as the date and time for the public hearing.

School Budget Form No. 4 is the resolution of appropriations by funds and programs adopted by the board. It should be made a part of the minutes of the meeting held for the adoption of the budget.

School Budget Form No. 5 is the resolution of tax levies fixed at the meeting held for the adoption of the budget. Tax levies established by the board should be included in the minutes of the board meeting. School Budget Form No. 5, also serves as the Budget Submission Letter and Certificate, and must be filed in duplicate with the county auditor together with two copies of Forms Nos. 1 to 5 inclusive.

As an integral part of the budgetary process, school corporations are required to budget General Fund revenue generated by special education students for expenditure on those students. The "Revenue Calculation Sheet for Special Education" worksheet will be used to calculate funding for special education in each school corporation. The "Expenditure Calculation Sheet for Special Education" will be used to define special education costs. These forms are in addition to the State Support Worksheet and should be retained along with all other budgetary information and data.

APPROPRIATIONS AND ALLOTMENTS

While estimates of expenditures (Budget Form No. 1) are detailed by expenditure accounts within each program, appropriations (Budget Form No. 4) are made in total by programs and by funds. Disbursements from any program during the budget year are limited to the total amount appropriated for that program area unless additional appropriations are requested and approved.

On or before January 1 of each year, after the budget and tax levies have been approved by the Department of Local Government Finance, the governing body must allot the total appropriated for each program to the expenditure accounts within that program area. Disbursements from any expenditure account during the budget year are limited to the allotment made for that expenditure account, unless additional appropriations are obtained or reallocations are made. If the amount allotted by the governing body to one or more expenditure accounts within a given program is found to be insufficient for needs but it is determined that there will be excess allotments in other expenditure accounts within the same program, a portion or all of the excess may be transferred to the allotments in the depleted expenditure accounts; provided that a resolution of the governing body is adopted and recorded in the minutes of the meeting. An appropriation may be transferred from one program to another program of the General Fund without obtaining an additional appropriation if you follow the procedure outlined in Official Opinion No. 11 of the Indiana Attorney General issued in 1976. (IC 6-1.1-18-6)

BUDGET CALENDAR

The following calendar concerning legal dates for budgets and establishing of tax rates may prove helpful:

- a. Last date for the first publication of budgets is ten (10) days prior to the public hearing. (IC 6-1.1-17-3)
- b. Last date for second publication of budgets is three (3) days before the public hearing. (IC 5-3-1-2)
- c. Last date for completing public hearing of budget is ten (10) days prior to the adoption of the budget. (IC 6-1.1-17-5)
- d. Date of meeting of governing body for adoption of budget no later than September 20. (IC 6-1.1-17-5)
- e. Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. (IC 6-1.1-17-5)

- f. Meetings of County Board of Tax Adjustment - begin on September 22nd or the first business day thereafter if September 22nd is not a business day. (IC 6-1.1-29-4)
- g. Ten (10) or more taxpayers may initiate an appeal of the action of the County Board of Tax Adjustment on the school corporation budget by filing a statement of their objections with the county auditor within ten (10) days after publication of the notice to taxpayers of the tax rates to be charged. Taxpayers may not appeal if less than 75% of the taxpayers filing the appeal objected to the budget within 7 days of the unit's public hearing. (IC 6-1.1-17-13)
- h. Last date on or before which all duties of most County Boards of Tax Adjustment must be completed is October 1. (IC 6-1.1-17-9)
- i. Last date for school corporation to appeal to the Department of Local Government Finance from action of the County Board of Tax Adjustment is within ten (10) days after publication of notice of tax rates by the county auditor. (IC 6-1.1-17-13)

TRANSFERS OF APPROPRIATIONS WITHIN A FUND

If the proper legal officers of any school corporation determine that it is necessary to transfer money from one major budget classification to another and the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined, the transfer of funds is made by resolution of the governing body of the school corporation at a regular public meeting, it is not necessary to publish notice of transfer. Approval by the Department of Local Government Finance is not necessary.

PROCEDURE FOR ADDITIONAL APPROPRIATIONS

If the proper officers of any school corporation determine the need for expenditure of more money in the current year than was provided for in the approved annual budget, the following is required:

1. In all cases of additional appropriations the governing body must meet and determine that they desire to appropriate for the expenditure of more money than was appropriated in the annual budget. When this condition has been determined, notice must be given to taxpayers by publication and posting as required by IC 5-3-1-2(b). Said notice to taxpayers should be made as required by the Department of Local Government Finance.
2. The governing body determines whether to proceed with the proposal. An approval may not be in excess of the amount advertised, but can be less than requested. The governing body must adopt a resolution of additional appropriations.
3. If a school corporation proposes an additional appropriation from a fund that receives property tax levied under IC 6-1.1, the additional appropriation must be reported to and approved by the Department of Local Government Finance. A school corporation may make an additional appropriation without the approval of the Department of Local Government Finance if it is from a fund that does not receive property tax; however, those appropriations shall be reported to the Department of Local Government Finance.

After the public hearing, the proper officers of a school corporation shall file a certified copy of the final proposal and any other relevant information to the Department of Local Government Finance.

4. Upon receipt of the certified copy of a proposal for additional appropriations, the Department of Local Government Finance will, in not less than fifteen (15) days after it receives the certificate, determine (in writing) if sufficient funds are available or will be available. The Department of Local Government Finance shall limit the additional appropriation to revenues available or to be made available, which have not been previously appropriated.
5. If the Department of Local Government Finance disapproves an additional appropriation under IC 6-1.18-5, the Department of Local Government Finance shall specify the reason for its disapproval on the determination sent to the school corporation.

A school corporation may request a reconsideration of a determination of the Department of Local Government Finance under this section by filing a written request for reconsideration. A request for reconsideration must: (1) be filed with the Department of Local Government Finance within fifteen (15) days of the receipt of the determination by the political subdivision; and (2) state with reasonable specificity the reason for the request. The Department of Local Government Finance must act on a request for reconsideration within fifteen (15) days of receiving the request.

CANCELLATION OF OLD CHECKS

All warrants or checks, outstanding and unpaid for a period of two or more years as of December 31 of each year, shall be declared void, IC 5-11-10.5-2. Not later than March 1 each year, the treasurer shall prepare or cause to be prepared a list in duplicate of all checks outstanding for two or more years as of December 31 last preceding, IC 5-11-10.5-3. The original is to be filed with the board of finance of the school corporation and the duplicate shall remain with the school corporation treasurer. Contents of the list shall be as required by IC 5-11-10.5-4.

The treasurer shall enter the amounts so listed as a receipt to the fund or funds upon which they were originally drawn and remove the checks from the list of outstanding checks. If the fund on which the checks were originally drawn is not in existence, or cannot be ascertained, the amount of such checks shall be receipted to the General Fund, IC 5-11-10.5-5.

CONTRACTS OF TEACHERS AND OTHER EMPLOYEES

All contracts between teachers and school corporations shall be in writing signed by both parties to the contract and contain the beginning date of the school term as determined annually by the school corporation the number of days in the school term, the total salary to be paid during the school year and the number of salary payments to be made during the school year, IC 20-28-6-2.

Uniform teachers' contract forms shall be prescribed by the State Superintendent of Public Instruction, IC 20-28-6-3. Contract forms prescribed are the Regular Teacher's Contract, the Temporary Teacher's Contract and the Supplemental Service Teacher's Contract. These contract forms shall be used as required by statute, IC 20-28-7 (Sections 6, 7, 8).

Unless teachers are notified of dismissal in writing on or before May 1 of any year, the current contract shall be renewed for the ensuing year, IC 20-28-7. Additionally, before January 1, a teacher must receive a written evaluation before the cancellation of semipermanent teacher's indefinite contract. The status and contract rights of public school teachers are preserved when in military service, or on leave of absence upon entering defense service, IC 20-28-10-6.

Noninstructional employees are not required by statute to enter into a contract for services, except persons employed to transport children in school corporation owned equipment to and from school. If the school corporation owns the transportation equipment in its entirety, it may employ bus drivers on a school year basis and such contracts of employment shall be in writing, IC 20-27-5-4. Although other noninstructional employees are not required to enter into a written contract, some school corporations do provide written contracts with such employees. The board of school trustees may fix and pay the compensation of noninstructional employees, classify such persons or services and adopt schedules of salaries or compensation, IC 20-26-5-4(7). Such salary or compensation schedules may be made a part of the board minutes without entering into written contracts.

TEACHER TENURE

If a teacher shall serve in any school corporation for five or more successive school years and at any time thereafter enter into a contract for further services, this teacher shall thereupon become a permanent teacher of that school corporation, IC 20-28-6-8. The law provides for a contract between the teacher and the school board after an indefinite contract is established, and the contract should prescribe the beginning and length of the term and the salary to be paid. (School City of Lafayette v. Highley, 213 Ind. 369) No permanent contract may be cancelled except by due notice and for specified cause as provided in IC 20-28-7-1.

TEACHERS' LEAVE OF ABSENCE

A school corporation may grant a teacher a leave of absence, for at most one (1) year, for a sabbatical, disability or sick leave. The length of this leave shall be credited to the teacher's tenure and retirement. A contract is required for a leave under this statute if any provision for compensation is included, such as for sabbatical, sick, disability or pregnancy (IC 20-28-10, Sections 1 to 4). The school corporation may grant consecutive leaves.

TEACHERS' SALARIES

The minimum salary law for teachers is found in IC 20-28-9. If a salary schedule not less remunerative than the state minimum salary is adopted by the board of school trustees or through collective bargaining, same shall be the minimum schedule for all teachers within that school corporation. The teacher employed on a Supplemental Service Teachers' contract shall be paid in accordance with the local salary schedule in effect for regular teachers in that school corporation, IC 20-28-6-7. If schools are closed by order of the school corporation, health authorities, or through no fault of the teacher, all teachers shall receive their regular salaries during the time schools are closed, IC 20-28-9-15-16. However, whenever a cancelled student instructional day (as defined in IC 20-10.1-2-1) is rescheduled to comply with IC 20-10.1-2-1 each teacher and (notwithstanding IC 20-27-8-7) each school bus driver shall work on the rescheduled day without additional compensation.

NONINSTRUCTIONAL EMPLOYEES' SALARIES

There is no minimum salary law for noninstructional employees other than the state and federal minimum wage and hour laws. The board of school trustees has the authority to classify and determine salary schedules for noninstructional employees provided such schedules do not violate any state or federal wage and hour statutes, IC 20-5-2-2(7).

Students performing services for any school in which they are enrolled and are regularly attending classes are not subject to the Indiana Minimum Wage Law of 1965, IC 22-2-2-3(i).

TEACHER SICK LEAVE AND OTHER LEAVE

Each teacher may be absent from work with pay on account of illness or quarantine for ten days the first year of employment in a school corporation and seven days in each succeeding year. Unused sick leave days shall be accumulated to a total of ninety days, IC 20-28-9. Sick leave provisions under this section constitute a minimum and additional sick leave, both as to the number of days per year or total accumulated days, may be increased by proper official action of the school corporation which must be consistent with the salary schedule adopted by the school board. (Official Opinion of the Attorney General No. 8 of 1962)

If a teacher has accumulated one or more days of sick leave and shall thereupon become employed in another school corporation of this state, there shall be added for the second year and each succeeding year of such employment up to three (3) days of sick leave until the number of accumulated days to which the teacher was entitled in the last place of employment shall be exhausted, IC 20-28-9.

Each public school teacher shall be entitled to at least two (2) days for the transaction of personal business and/or the conduct of personal or civic affairs during each year of employment, IC 20-28-9-14. The minimum number of sick leave days required by statute could not be decreased by any rule permitting leave of absence for purposes other than sickness. (Official Opinion of Attorney General No. 16 of 1962)

Each teacher shall be permitted to be absent from work for death in the immediate family for a period extending not more than five (5) days beyond such death without loss of compensation, IC 20-28-9. The five (5) days period means calendar days and not school days. In computing the time, exclude the day of death and include the fifth day thereafter as being within the period of time. (Official Opinion No. 16 of Attorney General issued May 17, 1974)

At present there is no statute specifying a minimum number of sick leave days or other leave days for noninstructional employees; however, the board of school trustees has authority to make, enforce and amend rules, regulations and procedures for the government and management of the schools, IC 20-26-5-4(7). This includes school property, facilities and activities of the school corporation, its agents, employees and pupils, and for the operation of its governing body.

NATIONAL GUARD DUTY

IC 10-2-4-3 provides in subsection (c) A member is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to regular vacation period, without loss of time or pay for such time as the member is (1) on training duties of the State of Indiana on orders of the governor as commander in chief; (2) a member of any reserve component under the order of the reserve component authority; for consecutive or non-consecutive periods not to exceed a total of fifteen (15) days in any calendar year. The entitlement to a leave of absence without loss of time or pay provided in this subsection is not at the discretion of the member's employer. Amends Section (d) to provide a member is entitled to receive from the member's employer a leave of absence from the member's respective duties, in addition to the member's regular vacation period for the total number of days that the member is on state active duty under section (4) of this chapter. A leave of absence provided under this subsection may be with or without loss of time or pay at the discretion of the member's employer. Claims for compensation must be supported by certification of compliance with training duty orders.

TRAVEL EXPENSE

If a trip by a board member or an employee of a school corporation is deemed by the board of school trustees to be in the interest of the school corporation, the board may allow the employee to be absent from work without loss of pay, and may refund to such employee his reasonable hotel and board bills and necessary travel expense, IC 20-26-5-4(8). A municipality may not reimburse an employee for travel expense which is, in fact, not incurred by the employee. (Opinions of the Attorney General 1953, Page 375)

If an instructional employee is required to travel between schools, such should be made a part of the contract each school year specifying a maximum amount to be allowed for travel inside the school corporation and a maximum amount to be allowed for travel outside the school corporation. The employee must file an itemized claim for any mileage on General Form 101 (Mileage Claim), and other travel expenses must be claimed on Accounts Payable Voucher, Form 523.

ANNUITIES

In Official Opinion No. 24 issued in 1962, the Attorney General held that the State Superintendent of Public Instruction may amend the teachers' contract form to provide for a part of the salary to be paid in cash and the balance of the salary to be used by the school corporation in the purchase of an annuity for the teacher. The maximum amount to be used for the purchase of a tax sheltered annuity is subject to a formula established by the Internal Revenue Service (IRS). A school corporation, before initiating a tax sheltered annuity program, should have the program approved by the Internal Revenue Service.

The approved amount of the teacher's salary paid by the school corporation for the purchase of a tax sheltered annuity is not subject to federal income tax, Indiana gross income tax, or county adjusted gross income tax deductions. The amounts paid by a school corporation on behalf of and as authorized by an employee would, in accordance with the ruling of the Internal Revenue Service, be entitled to the deferred tax treatment provided under the terms of Sec. 403(b) of the Federal Internal Revenue Code, thereby excluding such amounts from the gross income of such employees under the terms of Sec. 103 of the Adjusted Gross Income Tax Act 1963. (Opinions of Attorney General 1964, Number 17)

The amounts so designated are subject to deductions for social security and applicable retirement plans.

RETIREMENT

The administrative officers of each school corporation or other institutions covered by the fund shall notify each person to be employed in a teaching position of his obligations under this article as a condition of employment. The administrative officer shall make these obligations a part of the teacher's contract. Except in cases where the contribution is made on behalf of the member, each teacher's contract shall be construed to require the deduction of contributions to meet the teachers' contractual obligations to the fund and the state.
IC 21-6.1-7-1

The only pension plan, other than social security, presently available to noninstructional employees is created by the Public Employees' Retirement Act (PERF), IC 5-10.3-2-1. Inquiries relative to participation in PERF should be directed to PERF, Suite 800, Harrison Building, Indianapolis, Indiana, 46204.

GROUP INSURANCE

Pursuant to IC 5-10-8, a school corporation may contract for group insurance in relation to its employees (IC 5-10-8-1 provides that an employee is defined as an individual employed by school corporation either full-time or part-time whose services have continued without interruption at least thirty days), pay part of the cost of such insurance, and provide for withholding the remainder of such costs from the salaries or wages of the participating employees. Group insurance may cover both instructional and noninstructional employees or a person who provides personal services to the unit under contract during the contract period. Retirement annuities and pensions are not included within the definition of "insurance" as used in IC 5-10-8-1.

A public employer may, however, exclude part-time employees and persons who provide services to the unit under contract from any group insurance coverage that the public employer provides to the employer's full-time employees.

In Official Opinion No. 21 issued June 17, 1957, the Attorney General held that according to IC 19-10-4 (now IC 5-10-8), governmental units may participate in paying for group insurance to any extent short of full payment so long as the requirement regarding the appropriation of funds is fulfilled.

In Official Opinion No. 44 issued in 1966, the Attorney General stated that a governmental unit may contribute toward the insurance on legal dependents of the employee, that is, the dependents for whom the employee is required by law to pay their medical expenses. This would include the employee's spouse and minor dependent children.

IC 5-10-8 permits a local unit to include its retired employees as members of its group insurance program.

IC 5-10-8-2.6 provides that a public employer may pay, as supplemental wages, an amount equal to the deductible portion of group health insurance as long as payment of the supplemental wages will not result in the payment of the total cost of the insurance by the public employer.

FEDERAL AID

School corporations are authorized to cooperate with the Federal Government and to accept the benefits of federal aid programs which are not specifically prohibited by law, IC 5-19-1-1.

If the program provides for a 100% federal grant, or if so required by the Federal Government, a special fund should be established on the records, IC 21-2-11-6.

When the program is one in which the funds are receipted to the General Fund, appropriations must be available prior to disbursement. If no local tax funds are involved and the moneys are accepted for specific purposes, the moneys and any earnings thereon, may be disbursed from the special fund without appropriation as long as the disbursement is for the purpose specified, IC 21-2-11-6.

INCOME TAX WITHHOLDING AND REPORTING - PUBLIC WORKS CONTRACTS

Governmental units, including school corporations, are required to file "Report of Construction and Other Service Contracts" with the Indiana Department of Revenue at the time a contract is let. These forms may be procured from the Indiana Department of Revenue. The report covers contractors, architects or engineers engaged in public works contracts regardless of whether they are resident or non-resident contractors and regardless of whether they are individuals, partnerships or corporations.

The treasurer of the school corporation should follow directives of the Indiana Department of Revenue withholding requirements for payments to non-resident corporations except those licensed to do business in the State of Indiana.

GENERAL OBLIGATION BONDS AND OTHER EVIDENCES OF INDEBTEDNESS

General obligation bonds may be sold by following the provisions of IC 5-1-11-1 et seq. Please also be aware of the provisions of IC 6-1.1-20-1 et seq. concerning procedures for issuance of bonds and other evidence of indebtedness.

All bonds and other evidence of indebtedness issued or sold by a school corporation may bear interest at any necessary rate, provided that if the interest rate is in excess of eight percent (8%) the approval of the Department of Local Government Finance must be obtained. (IC 6-1.1-20-7; IC 20-5-4-3)

Bonds issued for the funding of judgments or for the purchase of school buses shall mature not more than five (5) years from the date of such bonds. Bonds issued for other purposes shall mature not more than twenty-five (25) years from the date of such bonds, IC 20-5-4-2.

IC 5-1-14-5 authorizes school corporations to issue bond anticipation notes.

EMERGENCY LOANS

Emergency loans for the necessary expenditures of money not included in the existing budget and tax levy may be authorized by the issuance of a note or notes in the same manner and subject to the same procedure and restrictions as provided for the sale of bonds, except as to purpose. At the time of making the next annual budget and tax levy, the board of school trustees shall make a levy to the credit of the fund for which such expenditure is made sufficient to pay the debt and interest; however, the interest on the loan may be paid from the Debt Service Fund, IC 20-5-4-6 and IC 20-5-4-7.

If the rate of interest attached to these loans exceeds eight percent (8%), the approval of the Department of Local Government Finance must be obtained.

TEMPORARY LOANS

A temporary loan must be authorized by the board of school trustees, and the amount must be specified as well as the fund or funds for the benefit of which the loan is to be made or from the General Fund for anticipated state tuition support distributions. The amount of the principal maturing on or before June 30 for any fund shall not exceed eighty percent (80%) of the amount of taxes and state tuition support distributions established to be collected or received for and distributed to the fund at the June distribution of taxes; and the amount of the principal of temporary loans maturing after June 30 and on or before December 31, shall not exceed eighty percent (80%) of the amount of taxes and state tuition support distributions estimated to be collected or received for and distributed to such fund at the December distribution of taxes. However, see "The School Administrator and Uniform Compliance Guidelines," Volume 131, September, 1995. The principal of such loans is payable from the fund for which such taxes are levied or from the General Fund in the case of anticipated State tuition support distributions. If the loan is in excess of \$20,000.00, the issuance shall be advertised, bids received and an award made by the school board as required for the sale of bonds. Notice need not be published outside the county or more than ten (10) days before the date of sale, IC 20-5-4-8. The interest may be paid from either the fund for which the loan was obtained or from the Debt Service Fund. However, if the rate of interest exceeds eight percent (8%), the approval of the Department of Local Government Finance must be obtained.

Public Law 230, 2003, states in Section 4 (a): "Notwithstanding IC 20-5-4-8(c) and IC 20-5-4-8(d), the amount of principal of temporary loans maturing under IC 20-5-4-8 on or before December 31, 2005, shall not exceed the lesser of: (1) the highest cash flow deficit (not to exceed the amount permitted by Internal Revenue Service arbitrage regulations) estimated by the governing body of the school corporation for the year ending December 31; or (2) eighty percent (80%) of the total approved budget for the fund for which the loan is made. (b) If the governing board of a school corporation determines that an emergency exists that requires an extension of the prescribed maturity date for a temporary loan referred to in subsection (a), the prescribed maturity date may be extended for not more than six (6) months after the budget year for which the temporary loan is made if the governing board does the following: (1) Passes a resolution that contains: (A) a statement determining that an emergency exists; (B) a brief description of the grounds for the determination that an emergency exists; and (C) the date the loan will be repaid that is not more than six (6) months after the budget year for which the temporary loan is made. (2) Immediately forwards the resolution to: (A) the state board of accounts; and (B) the department of local government finance. (c) The SECTION expires July 1, 2005."

TEMPORARY TRANSFERS TO DEPLETED FUNDS

The board of school trustees instead of negotiating a temporary loan is authorized to transfer, by resolution, from a fund having sufficient balance to any fund in need of money for cash flow purposes. The resolution must specify the fund from which money is to be temporarily advanced or transferred, the fund to which said amount is to be advanced, the amount to be transferred and the time of such temporary borrowing. The time fixed by the resolution for repayment of a temporary transfer shall not extend beyond December 31, except as authorized by IC 36-1-8-4(b), of the year in which the temporary transfer is made. Any such transfer shall be made only from funds derived from the collection of property taxes, collection of special taxes and from other revenue derived from any operation of the school corporation, IC 36-1-8-4. No temporary transfers may be made from federal funds or from funds obtained by the sale of general obligation bonds.

PUBLIC WORKS BORROWING

This chapter applies to a public work project that will cost the political subdivision not more than two million dollars (\$2,000,000). IC 36-9-41-1

As used in this chapter, "public work" means a project for the construction of any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds. IC 36-9-41-2

Notwithstanding any other statute, a political subdivision may borrow the money necessary to finance a public work project from a financial institution in Indiana by executing a negotiable note under section 4 of this chapter. The political subdivision shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed under this chapter is chargeable against the political subdivision's constitutional debt limitation. IC 36-9-41-3

A political subdivision borrowing money under section 3 of this chapter shall execute and deliver to the financial institution the negotiable note of the political subdivision for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years. IC 36-9-41-4

CIVIL AID BOND OBLIGATIONS

A school corporation reorganization plan may provide that the school corporation pay to each civil township, civil city, or civil town which has issued school aid bonds, amounts sufficient to pay the principal and interest on such bonds prior to the due date thereof, IC 20-4-1-35. In any community school corporation the board of school trustees may, by resolution, provide for making payments to civil townships for school aid bonds and coupons, IC 20-4-1-38. Payment should be made from the Debt Service Fund to the proper civil authorities on or about June 20 and December 20 of each year. The proper civil officer should certify to the treasurer of the school corporation the date school aid bonds and coupons are due and payable, and the amount of such bonds and coupons coming due at each date.

SCHOOL BUS PURCHASES

A school corporation may purchase both the body and chassis of a school bus, or purchase either the body or the chassis, IC 20-9.1-6-1. Purchases may be made for cash or under the terms of a security agreement. If purchased by a security agreement contract, the agreement shall run for a period of not to exceed six (6) years and shall be amortized in approximately equal installments payable on the first day of January and July of each year. The interest and all other carrying charges shall not exceed eight percent (8%) per year upon the balance remaining unpaid from time to time without first obtaining approval of the Department of Local Government Finance. Payments for school bus purchases shall be made from the General Fund or the School Bus Replacement Fund for replacement buses of up to ten percent (10%) of the number of buses in the school corporation fleet.

Purchases for cash may be made from available funds on hand (a check must be written) as a result of a specific appropriation made therefore, from the proceeds of general obligation bonds issued for purchasing school buses, or from funds borrowed from banks and lending institutions. Bonds may be issued in the same manner as other general obligation bonds of the school corporation are issued. However, these bonds may be retired from the Debt Service Fund and may not extend for more than six (6) years.

In lieu of issuing general obligation bonds, a school corporation is authorized to negotiate and borrow funds from any bank for the purchase of school buses for cash. The school corporation shall execute its notes to the lending institution, and such notes shall not extend for a period longer than six (6) years, and shall be paid at the same time and in the same manner as provided for the payment of a security agreement. The interest and all other charges on such notes shall not exceed eight percent (8%) per year upon the balance remaining unpaid from time to time without first obtaining approval of the Department of Local Government Finance. Before notes are executed, an appropriation for the purchase price of the school buses shall be made as provided for the making of other appropriations, IC 20-9.1-6-5. Although the loan is receipted to the General Fund and the purchase made therefrom, the notes may be redeemed from the Debt Service Fund.

IC 20-9.1-6-5 does not list the purchase of school buses under a rental with option to purchase contract.

JOINT SERVICES AND SUPPLY FUND

Two or more school corporations (other than school townships which are served by another law) may engage in joint programs under a written agreement executed by all of the participating school corporations, IC 20-5-11. This statute defines "joint programs" as the joint investment of money, joint employment of personnel, joint purchase of supplies or other materials, and joint purchase or lease of equipment, land, buildings, etc. for a particular program or purpose. Such joint actions shall include data processing, vocational education, psychological services, audio-visual services, guidance services, special education and investment of money. The written agreement should include:

1. Designation of the type of purchases, leases, or investments, etc., to be made.
2. The manner of approving persons employed under the joint program.
3. Designation of the type of construction, remodeling or additions to be made on the school buildings.
4. Provision for the organization, administration, support, funding and termination of the program.

5. The designation of one of the participating school corporations to administer and supervise the joint program including receiving and disbursing funds, executing documents, and maintaining records in accordance with the act and the written agreement between the participating school corporations.
6. Other specific items pertinent to the joint program under consideration.

Each participating school corporation shall pay into the Joint Services, Leasing, Construction and Supply Fund, to be administered by the designated school corporation, an amount set forth in the written agreement, IC 20-26-10-8.

BONDS OF TREASURER, DEPUTY TREASURER AND EMPLOYEES

For each school year commencing July 1, the treasurer of the school corporation, and the deputy treasurer if one is appointed, shall each give a bond for the faithful performance of duty, written by an insurance company licensed to do business in the State of Indiana, in an amount determined by the governing body. The treasurer shall be responsible under the treasurer's bond for the acts of any deputy treasurer appointed as provided in IC 20-26-4-5. All bonds must be made payable to the State of Indiana, IC 5-4-1-10; approved by the governing body of the school corporation, and filed and recorded in the office of the county recorder within ten (10) days after approval, IC 5-4-1. No charge is made for recording official bonds, IC 36-2-7-10.

The treasurer of each extra-curricular account shall provide a faithful performance of duty bond for one year, the term of the office. The amount of the bond shall be fixed and approved by the school superintendent and principal approximating the total amount of anticipated funds which will come into the hands of the treasurer at any one time during the regular school year, IC 20-26-6-5. The bond shall be filed in the office of the county recorder, and a new bond shall be issued and filed each year. If either school lunch funds or textbook rental funds are handled through an extra-curricular account, the governing body of the school corporation shall approve the amount of the bond of the treasurer, IC 20-26-5-17. The bond may be either an individual bond for each extra-curricular treasurer or a single blanket position bond for all extra-curricular treasurers, IC 20-26-6-5.

Whenever deemed necessary to bond any other employee of a school corporation, the governing body may bond or cause to be bonded such employee or employees by either individual or blanket bonds conditioned upon faithful performance of duties, and in amounts and with surety approved by the school board. We recommended bond coverage for any employee handling funds. A blanket bond should not include any officer, deputy or employee for whom an individual bond is required by statute. Individual bonds are required for the school corporation treasurer and the deputy treasurer.

PROPERTY TAX ADVANCE

Every county treasurer who, by virtue of his office, shall be the collector of any taxes for any school corporation within the county of which he is treasurer, shall, upon a written request for funds filed with him by the proper local officer of any school corporation within the county, advance to the school corporation before the semiannual distribution, any amount of taxes collected not to exceed ninety-five percent (95%) of the total amount collected at the time of the advance nor to exceed ninety-five percent (95%) of the amount to be distributed at the following semiannual distribution. The request for funds under this law must be filed at least thirty (30) days before the County Treasurer is required to make the advance. The amount of the advance shall be immediately for the use of the school corporation. At the semiannual distribution all the advances made the school corporation shall be deducted from the total amount due to the school corporation as shown by the distribution, IC 5-13-6-3.

PLANS AND SPECIFICATIONS - APPROVAL BY VARIOUS AGENCIES

All plans and specifications for public buildings must be approved by the State Board of Health, State Fire Marshal, State Building Commissioner and other State Agencies designated by statute.

LATE PAYMENTS

IC 5-17-5-1 provides that the school corporation shall pay interest at the rate of one percent (1%) per month on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the school corporation fails to make timely payment. The specifics of when a payment is considered timely may be found in this section and in IC 5-17-5-2.

SERVICE CONTRACTS - JANITORIAL AND SECURITY SERVICE

If a school corporation adopts a resolution under IC 36-1-9.1, bid procedures under IC 36-1-9.1 are required if the total annual payment under the service contract exceeds \$25,000.

COMPULSORY EDUCATION

Unless otherwise provided, every child between the ages of seven (7) and sixteen (16) years shall attend public schools or other schools taught in the English language. A child for whom education is compulsory under this section shall attend school each year for the number of days public schools are in session in the school corporation in which the child is enrolled, IC 20-33-2.

Minors may be employed in specified occupations during the time schools are in session pursuant to IC 20-33-3. In relation to employment of children who are more than fourteen (14) years of age and less than eighteen (18) years of age and the issuance of employment certificates, refer to IC 20-33-3.

AVAILABILITY OF EDUCATION

The Indiana Constitution in Article 8, Section 1 charges the Indiana General Assembly with the duty to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.

The General Assembly in response in IC 20-33-1-2 has provided that the public schools of the State of Indiana shall be open to all children until they complete their courses of study.

The State Board of Education and the State Superintendent of Public Instruction are authorized to provide a program of adult education; and, to provide a plan whereby high school credits may be secured by persons who have passed the high school age, IC 20-20-6. The office of the Indiana Attorney General ruled that school corporations may not exclude married pupils or students over twenty one (21) years of age who are otherwise eligible to attend school. However, please consult the school corporation attorney for applicability of any court decisions.

INSURANCE FOR SCHOOL CHILDREN

IC 20-26-5-4(14) authorizes school corporations to purchase insurance or to establish and maintain a program of self-insurance relating to the liability of the school corporation or its employees in connection with motor vehicles or property and for any additional coverage to the extent permitted and in accordance with IC 34-4-16.5-18 to protect the school corporation, its employees, board members, contractors or agents from any liability, casualty risks, loss of use, and other insurable risks relating to property owned, leased or held by the school corporation. It permits the school corporation to purchase insurance or to establish and maintain a program of self-insurance to benefit school corporation employees (which may include accident, sickness, health or dental coverage) provided that any plan of self-insurance shall include an aggregate stop-loss provision.

Additionally, IC 20-27-5-9 provides authority for the school corporation to require independent contractors to carry, or for the school corporation to provide, additional insurance during the time pupils are being transported to and from school in approved transportation equipment, which includes health and accident and medical payments coverage for the pupils while being transported, as the governing board or the contractor deems necessary.

CHILDREN WITH DISABILITIES

Every school corporation is empowered individually or in joint programs to establish special classes or schools for instruction of children with disabilities.

Any school corporation may provide transfers and transportation of resident children with disabilities to facilities for the instruction of children with disabilities. IC 20-35-4-1.

INDIGENT CHILDREN

If a parent of a child or an emancipated minor, who is enrolled in a public school in grades K-12, meets the financial eligibility standard under section 2 of IC 20-33-5, he may not be required to pay the fees for school books, supplies or other required class fees. Such fees shall be paid by the school corporation in which the child resides and the school corporation shall be reimbursed by the state for textbooks and workbooks. IC 20-33-5 describes the duties of the school corporation, the parents in relation to the eligibility standards for the financial assistance, the availability of application forms, etc.

Although a school corporation may not withhold schoolbooks and supplies, require any special services from a child, or deny the child any benefit or privilege because the parent fails to pay required fees, the school corporation may take any action authorized by law to collect unpaid fees from parents who are determined to be ineligible for assistance and may recover reasonable attorney fees and court costs in addition to a judgment award against those parents. Financial assistance for shoes and clothing is not the responsibility of the school corporation under IC 20-33-5.

MEDICAL INSPECTION AND IMMUNIZATION OF CHILDREN

School corporations have the authority to employ school nurses and physicians to make prompt examination and diagnosis of school children referred to them, IC 20-34-3. Expenditures may not be made from public funds for physical examinations of students participating in interscholastic athletic contests or for the attendance of physicians at such contests. (Opinions of Attorney General 1961, Page 216)

IC 20-34-3 lists immunization requirements for school children along with notification and reporting requirements for schools.

The governing body of each school corporation has a duty to annually conduct and administer audiometer tests or tests of a similar nature with approved scientific instruments or devices for determining the hearing efficiency of school children enrolled in the first, fourth, seventh and tenth grades, IC 20-34-3-14. All children transferred from other districts and all school children residing in the school corporation suspected of having hearing defects shall be included. Payment for such expenses shall be made by the school corporation from the General Fund.

The governing body of each school corporation shall cause to be conducted an annual vision test of children upon their enrollment in kindergarten or the first grade and an annual screening test of the visual acuity of all children enrolled in or transferred to the first, third and eighth grades, and all other children suspected of having a visual defect, IC 20-34-3-12. Records of all such tests shall be made and continuously maintained in order to provide information useful in protecting, promoting and maintaining the health of school children.

SAFETY DEVICES

Every pupil and teacher in any public school which participates in any of the courses of instruction listed in IC 20-34-3-19 is required to wear industrial quality eye protective devices at all times while participating in such courses or in laboratories.

TRANSFER OF SCHOOL CHILDREN

Indiana statutes provide authority for a child to be transferred for attendance in the schools of a school corporation other than the one of the child's legal residence if it is determined the child, for education purposes can be better accommodated in the schools of another school corporation. The legal residence or legal settlement of a child for school attendance is primarily that in which the child's parents reside. If the child or its parents desire attendance of the child in another school corporation, the corporation of residence may be asked to authorize the transfer; or, if the school corporation of residence denies the request, the transfer may still be accomplished (provided the desired corporation will accept the child) if the parents or the child will agree to pay the transfer tuition. The child is entitled to attend school in the school corporation of residence (legal settlement) without a charge for tuition.

The statute concerning legal settlement, sometimes identified as residence, of the child (or student) may be found in IC 20-26-11. If a question arises concerning the legal settlement of a child in a school transfer situation, consult IC 20-26-11. If a legal interpretation becomes necessary, the statute should be reviewed with the attorney representing the school corporation.

When a child has changed legal settlement during the school year, the child may be permitted to attend as a resident student in the first corporation to the end of that semester, or, at the discretion of the school corporation, to the end of that school year. If the child has completed grade 11 in any school year when the above change of settlement occurs, the provision for the child to be permitted to attend shall be extended to the end of the following school year in grade 12.

The terms "residence," "resides," or other comparable language when used in IC 20-26-11 with respect to legal settlement, transfers, and the payment of tuition, means a permanent and principal habitation which a person uses as a home for a fixed or indefinite period, at which the person remains when not called elsewhere for work, studies, recreation or other temporary or special purpose. These terms are not synonymous with "legal domicile." When a court order grants a person custody of a student, the residence of the student is where that person resides.

For provisions concerning the transfer of students with disability, those living in foster homes or of state employees living on state property, foreign exchange students, interstate transfers and other special cases refer to other sections of IC 20-26-11.

IC 20-26-11 requires annual reporting to the State Department of Education concerning transfer students.

TRANSPORTATION OF SCHOOL CHILDREN

The governing body of every school corporation may provide transportation for school children to and from school, IC 20-27-5-2. If the school corporation provides transportation for school children, the governing body shall be responsible for obtaining the necessary number of school buses and school bus drivers, and for negotiating and executing the necessary number of school bus driver contracts, IC 20-27-5.

If the drivers own part or all of the equipment (as independent contractors), contracts shall be entered into after advertising and receiving bids or negotiating pursuant to IC 20-27-6. Compensation for these drivers shall be in accordance with the provisions of IC 20-27-8-7. A transportation contract may include a provision enabling a contract school bus driver to be eligible for the life and health insurance benefits and other fringe benefits afforded to other school personnel.

If the school corporation owns in its entirety the school bus equipment, the corporation may employ school bus drivers in the same manner as other noninstructional employees, on a school year basis. Such contracts of employment shall be in writing. Deductions from salaries of "employees" driving school corporation owned equipment must be made in the same manner as deductions from the salaries of other noninstructional employees.

If either an independent contractor or a noninstructional employee fails or refuses to attend any school bus driver safety meeting or workshop, one day's pay shall be deducted from the compensation of such driver for each day of absence, IC 20-27-8-4. Pre-service school bus driver training is required as stated in IC 20-27-8-10.

The governing body of any school corporation may enter into a contract for transporting school children with a common carrier which operates pursuant to the jurisdiction of the department of state revenue, IC 20-27-5-29.

All school children, while being transported on a school bus, shall be under the supervision, direction and control of the school bus driver, and shall be subject to the discipline of the bus driver and the governing body of the school corporation, IC 20-27-10-2.

A regular seat must be provided in the school bus for each child being transported to and from school, IC 20-27-10-3.

A school corporation must transport parochial school children residing on or along the regular school corporation route, without charge, from a point on the regular route nearest or most easily accessible to their homes to and from the parochial school or to and from the point on the regular route which is nearest or most easily accessible to such parochial school, IC 20-27-11-1. This statute obviously refers to the school bus or conveyance already being operated over the regular established route, and neither requires nor authorizes the school trustees to place additional buses on the route in order to accommodate parochial pupils otherwise eligible for transportation. (Opinions of Attorney General 1936, Page 415; also No. 12, issued February 21, 1964)

Transferred students may be transported by the receiving school corporation pursuant to a transportation agreement contract between the transferring corporation and the receiving corporation, IC 20-27-11-4.

A school corporation may provide transportation for resident students although such students are attending the public schools of another school corporation on a private transfer tuition agreement. (Opinions of Attorney General 1963, Page 234)

INSURANCE LOSSES, MONEY RECEIVED

Notwithstanding the other provisions of this chapter, the fiscal officer of a political subdivision may appropriate funds received from an insurance company if: (1) the funds are received as a result of damage to property of the political subdivision; and (2) the funds are appropriated for the purpose of repairing or replacing the damaged property. However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received, IC 6-1.1-18-7. The amount to be expended for repair or replacement of the damaged property, not to exceed the amount of insurance recovery, should immediately be added to the proper program appropriation, and allotted to the expenditure account, or accounts, to which the disbursements will be charged. All such expenditures shall be paid from the fund to which the insurance money was receipted.

SIGNATURE ON CLAIMS AND CHECKS

One of the duties of the treasurer of the school corporation is to issue all checks in payment of expenses lawfully incurred on behalf of the school corporation; but, except as otherwise provided by law, shall issue such checks only after proper allowance or approval by the governing body, IC 20-26-4-1(d)(l).

The decision as to whether or not the number of documents to be signed justifies the use of a rubber stamp or mechanical device for affixing his signature should be made by each official on their own behalf. If such a stamp or other device is used, it should remain in the possession of the official at all times as the official alone must accept responsibility for their signature regardless of the manner in which it is affixed.

DORMANT FUND BALANCES

Whenever the purposes of any general or special tax levy have been fulfilled, the governing body of the school corporation shall order the treasurer of the school corporation to transfer any unused and unencumbered balance in the fund resulting from such general or special levy, to the General Fund or Rainy Day Fund of the school corporation, IC 36-1-8-5.

Whenever bonds have been issued for any lawful purpose or project, and the purpose for which the bonds were issued has been accomplished or abandoned and a surplus remains from the proceeds of such bond sale, the board of school trustees may, by a resolution adopted and recorded in the minutes, order the treasurer to transfer the unused balance or surplus to the Debt Service Fund. Surplus bond proceeds may be used by a school corporation for the same purpose or type of project for which the bonds were originally issued, if:

1. The fiscal officer of the school corporation certifies before or at the time of that use that the surplus was not anticipated at the time of issuance of the bonds; and
2. The school board responsible for issuing the bonds takes action approving the use of surplus bond proceeds for the same purpose or type of project for which the bonds were originally issued. IC 5-1-13-2.

PAYMENTS DUE DECEASED PERSON

Money due a deceased person at the time of death may be paid by one of the following methods:

1. If an executor, administrator or personal representative has been designated by the court, payment should be made to such executor, administrator or personal representative.

2. If an executor, administrator or personal representative has been designated by the court, payment should be made to such executor, administrator or personal representative. Payment may be made to a person claiming to be entitled to payment or delivery of property of the decedent without awaiting the appointment of a personal representative or the probate of a will when an affidavit is presented stating (a) no petition for the appointment of a personal representative is pending or has been granted, and (b) forty-five (45) days have elapsed since the death of the decedent, and (c) the value of the gross probate estate less liens and encumbrances thereon does not exceed twenty five thousand dollars (\$25,000), and (d) the claimant is entitled to payment or delivery of the property.

In either method or procedure, the State Board of Accounts is of the audit position that a payment to any of the above persons should be handled by writing the check referenced to the employee, therefore, providing a complete record of payment to the employee for future reference and not hindering administration of the estate.

SUBSIDIARY LEDGERS

IC 20-26-5-4 provides in part: "In carrying out the school purposes of each school corporation, its governing body acting on its behalf shall . . . acquire such personal property or any interest therein as the governing body deems necessary for school purposes . . ." Subsidiary ledger balances must reconcile to the control ledger fund balance. Every transaction should be posted to the control ledger and to the appropriate subsidiary ledger. Fund balances should reconcile between the control ledger and the subsidiary ledger.

GRANT FUNDS AND EDUCATIONAL FEES

IC 20-26-4-1 concerning duties of the School Corporation Treasurer, provides in part: "The treasurer shall be the official custodian of all funds of the school corporation and shall be responsible for the proper safeguarding and accounting for all the funds . . ." Therefore, all grant monies and properly authorized fees at an individual building should be transferred to the School Corporation Central Office on a timely and regular basis for receipting into the appropriate school corporation fund. The School Corporation Attorney should provide written guidance concerning whether fees are appropriate in regards to Constitutional provisions.

AVERAGE DAILY MEMBERSHIP (ADM)

Officials shall maintain records (enrollment cards, rosters, reporting forms, etc.) which substantiate the number of students claimed for ADM.

The building level official (Principal, Assistant Principal, etc.) is responsible for reporting ADM to the School Corporation Central Office, should provide a written certification of ADM to properly document responsibility. The certification should at a minimum include a statement detailing the names and location of the records used (these records must be retained for public inspection and audit) to substantiate ADM claimed.

TRANSPORTATION FUND EXPENDITURES

The Conclusion of Attorney General Advisory No. 96-78 states in part: "The school transportation fund was established to cover costs which are attributable to transportation. Indiana Code 21-2-11.5-2(b)(1) through (b)(7) set forth the costs which may be attributed to transportation. According to subsection (b)(1), the salaries of "transportation-related" employees may be paid from this fund. As the school superintendent and school corporation treasurer do not appear to be positions that are transportation-related, payment from the transportation fund of the salaries attached to these positions would be improper."

SUBSIDIARY LEDGERS, RECONCILING

Subsidiary ledger balances must reconcile to the control ledger fund balance. Every transaction should be posted to the control ledger and to the appropriate subsidiary ledger. Fund balances should reconcile between the control ledger and the subsidiary ledger.

RECORDING FINANCIAL TRANSACTIONS

All financial transactions related to the School Corporation should be accounted for in School Corporation Records.

SCHOOL FOOD VERIFICATIONS OF ELIGIBILITY

Officials should request a written position from the Indiana Department of Education stating whether the corrective action taken was sufficient or if additional verifications need to be performed when high incidences of errors in test sample verifications are noted.

PURCHASES

All purchases should be through the accounting system as prescribed herein to avoid potential overdrawn funds, payment of sales taxes, etc.

Individuals should not be allowed to purchase supplies, equipment and other items outside of the prescribed accounting system.